

## **REMARKS/ARGUMENTS**

### **Description of Present Invention**

As amended, the claims are directed toward an identification tag system for use with infants or small children. The claims are written such that the aim of the invention is to maximize the information-bearing surface of an identification tag while minimizing curvature or distortion of the information due to mounting of the wristband on a smaller circumference, i.e., the wrist or ankle of an infant or small child. The limitations in independent claims 1 and 28 that the "identification tag is mounted onto the exterior of said wristband having a size and shape to extend beyond the width of said wristband" and independent claims 42 and 87 that the "wristband is threaded through said slots to orient said tag with said long dimension thereof extending generally perpendicular to a long dimension of said wristband" emphasize this point. By having a structure that extends beyond the width of the wristband or extends perpendicular to the wristband, the effect of curvature due to the small circumference of the wrist or ankle of an infant or small child is minimized or even eliminated.

The first configuration of independent claims 1 and 28 provides that the tag is attached to the wristband through slide-fit reception of the wristband through the slots in the tag while being generally aligned with the wristband. This first configuration increases the information bearing surface that is unaffected by the degree of curvature when mounted on an infant or child. Independent claims 1 and 28 have also been amended to include as a limitation "so as to maximize a readable area of the information-receiving means on the tag while considering the degree of curvature of the tag when mounted on the wrist or ankle of the infant or small child." This limitation emphasizes the problem solved by this configuration, namely, the reduction of curvature interfering with the amount of readable area on a tag mounted on a small circumference, i.e., the wrist or ankle of an infant or small child.

The second configuration of independent claims 42 and 87 provides that the tag is attached to the wristband in the same manner while being oriented perpendicular to the wristband, i.e., oriented along the underlying surface rather than around the underlying surface. The second configuration reduces the degree of curvature that a tag would experience when mounted on the wrist or ankle of an infant or child. As described in the specification, this orientation provides that the extensive information bearing surface area of the tag is retained while the localized wristband zone of substantially or nearly planar shape defined by the shorter width of the tag is substantially minimized for enhanced user comfort. (Page 17, lines 16-20). The system is designed such that the tags will not be subject to curvature when applied to the wrist or ankle of an infant or child and presents comfortable material and edges against the skin of wearers. The degree of curvature of the tags in the present invention is non-existent as the tag runs along the flat surface up or down the infant's arm or leg verses wrapping around the curved surface of the infant's arm or leg. This orientation presents a relatively large flat surface on which barcodes can be more easily read and where RFID tags have less opportunity for damage and more opportunity for broader range. In addition, multiple tags may be used on the same wristband as there is a much greater degree of flat surface running up or down an infant's arm or leg versus the very limited surface around that same arm or leg along the wristband.

Claim Rejections 35 USC § 103

The Office Action rejected all pending claims as being unpatentable over various combinations of prior art with Castagna (5,503,114) and Doyle (2,791,202) being the primary references in each of the rejections. The other references include Fearing et al. (2002/0066418), Grose et al (2002/0054940), Tinklenberg et al. (6,058,639), Duncan (6,058,637), and McDermott (3,965,589). The claims, as amended, are distinguishable from Castagna and Doyle, as well as, all of the other cited prior art and the cited prior art is non-analogous to the present invention. See, In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992) ("In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of

applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." See also In re Clay, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); and State Contracting & Eng'g Corp. v. Condotte America, Inc., 346 F.3d 1057, 1069, 68 USPQ2d 1481, 1490 (Fed. Cir. 2003) (where the general scope of a reference is outside the pertinent field of endeavor, the reference may be considered analogous art if subject matter disclosed therein is relevant to the particular problem with which the inventor is involved).

The above cited limitations of claims 1, 28, 42 and 87 distinguish the present invention from the cited prior art, rendering the cited prior art non-analogous. The Castagna and Doyle references deal with animal collars, for wearing around the neck of an animal, and deal with the problems of communicating a specific message or including insecticide in a pocket. In contrast, the present invention is directed toward an identification tag system for use with infants and small children, for wearing on the wrist or ankle, a circumference much smaller than the neck of an animal. In addition, the present invention is concerned with the problem of curvature when a tag is mounted on the small circumference of a wrist or ankle of an infant or small child. This is not a problem addressed by either Castagna or Doyle.

Fearing also relates to non-analogous art. As with Castagna and Doyle, Fearing relates to an animal identification tag and does not address the problem addressed by the present invention, namely minimizing the degree of curvature imparted to the tag when the wristband is mounted on a small circumference such as the wrist or ankle of an infant or small child.

Similarly, Grose relates to non-analogous art. Grose relates to a method and apparatus for tracking a carcass during meat production and does not address the problem addressed by the present invention, namely minimizing the degree of curvature imparted to the tag when the wristband is mounted on a small circumference such as

the wrist or ankle of an infant or small child.

Tinklenberg also relates to non-analogous art. Tinklenberg relates to a marking tag for banded merchandise, i.e., produce, and maintaining the tag flush against the merchandise. Tinklenberg does not address the problem addressed by the present invention, namely minimizing the degree of curvature imparted to the tag when the wristband is mounted on a small circumference such as the wrist or ankle of an infant or small child.

Similarly, Duncan relates to non-analogous art. Duncan relates to imprintable tape with tear lines for maximizing the number of identification bracelets obtainable from a roll of tape. Duncan does not address the problem addressed by the present invention, namely minimizing the degree of curvature imparted to the tag when the wristband is mounted on a small circumference such as the wrist or ankle of an infant or small child.

Finally, McDermott relates to non-analogous art. McDermott deals with identification means including multiple pockets for the insertion of multiple labels or identification plates. McDermott also deals with permanent attachment of the identification means to the object. McDermott does not deal with minimizing the degree of curvature imparted to the tag when the wristband is mounted on a small circumference such as the wrist or ankle of an infant or small child.

#### **CONCLUSION**

Accordingly, Applicant respectfully submits that claims 1-11, 14-23, 28-34, 37, 42-49, 52-58 and 87-94 are in condition for allowance and respectfully requests notice of same.

Respectfully submitted,

KELLY LOWRY & KELLEY, LLP

/Scott W. Kelley/

Scott W. Kelley  
Registration No. 30,762

SWK:nh  
6320 Canoga Avenue, Suite 1650  
Woodland Hills, CA 91367  
(818) 347-7900